

Christopher T BURNS  
CDK NO K-50680  
Baker Facility, cell NO 4259  
California Mens colony  
State Prison  
P.O. Box 8101  
San Luis Obispo, California  
93409-8101

**FILED**  
FEB 25 2008  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SS New

February 03rd, 2008

**CV 08**

**1112**

**JSW**

**(PR)**

United States District Court  
For the Northern District of California  
450 Golden Gate Avenue  
San Francisco, California 94102

Case Name: \*Perez v. Tilton, [N.D. Cal], Prisoner  
Class Action Lawsuit.

Case NO:

Dear Clerk of the Court:

Please find enclosed with this cover letter, my  
Notice of motion, motion and Declaration in support thereof  
dated February 03rd, 2008 I am submitting for processing  
and filing for the Perez v Tilton, [N.D. Cal] Prisoner  
Class Action Lawsuit. Clerk of the Court, please file  
[Continued, see the back side of this cover letter]

From Side  
Page no one of one

008-1112 JSW

Baker Facility, cell No 4259  
California men colony  
State Prison  
P.O. Box 8101  
San Luis Obispo, California  
93409 - 8101

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Perez, et al.  
Plaintiffs,

VS

Tilton, et al.  
Defendants.

Case NO:

Prisoner Class Action Lawsuit

PLAINTIFF CHRISTOPHER T BURNS SEEKS  
LEAVE OF COURT TO FILE THIS NOTICE OF  
MOTION, MOTION AND DECLARATION OF  
CHRISTOPHER T BURNS IN SUPPORT THEREOF WITH  
THIS COURT REQUESTING A COURT HEARING INTO  
DEFENDANTS CONTINUAL PSYCHOLOGICAL AND  
PHYSICAL TORTURE OF PLAINTIFF BURNS IN  
UTTER CONTEMPT OF THIS COURTS ORDERS AND IN  
VIOLATION OF THE Perez PRISONER CLASS ACTION  
LAWSUIT.

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Baker Facility, cell NO 4259  
California Men's Colony  
State Prison  
P.O. Box 8101  
San Luis Obispo, California  
93409 - 8101

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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THIS COURT REQUESTING A COURT HEARING  
INTO DEFENDANTS CONTINUAL PSYCHOLOGICAL  
AND PHYSICAL TORTURE OF PLAINTIFF BURNS IN  
UTTER CONTEMPT OF THIS COURTS ORDERS AND IN  
VIOLATION OF THE PRISONER CLASS ACTION LAWSUIT,  
OF PEREZ VS TILTON.

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## COURT JURISDICTION

PLAINTIFF Christopher T Burns,

California Department of Corrections and Rehabilitation,  
[CDCR] No K-30680 is a California State Prisoner  
and is a member of the Perez vs Tilton, [N.D. Cal.]  
Prisoner Class Action Lawsuit and thus this Court has  
Jurisdiction over the Services, treatments, Care and conditions  
the CDCR and its employees provide for and give to  
Plaintiff BURNS during his present confinement in the  
CDCR of the California Men's Colony [CMC] State Prison  
in San Luis Obispo, California.

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Notice of Motion,  
Motion, Declaration in  
support thereof by  
Plaintiffs Burns  
seeking leave of court  
therein to request a  
court hearing into  
Defendants continued  
psychological and  
physical torture of  
Plaintiffs BURNS.

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II.

Court Jurisdiction

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Appointed Counsel

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1) Near death direct  
result of CDCR  
Prisoner overcrowding

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2) The Honorable Federal  
District Pamela Ahn  
Bymer to the CDCR  
twenty-five (25) years  
ago in *Doherty v. McCarthy*  
(CDR.C.1) 1985, Administration  
to reduce Prisoner overcrowding,  
- 5 -

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III.

[DECLARATION OF PEREZ PLAINTIFF CHRISTOPHER T BURNS IN SUPPORT OF SEEKING LEAVE OF COURT TO FILE THIS NOTICE OF MOTION, MOTION AND DECLARATION, REQUESTING A COURT HEARING INTO DEFENDANTS CONTINUAL PSYCHOLOGICAL AND PHYSICAL TORTURE OF PLAINTIFF BURNS IN UTTER CONTEMPT OF THIS COURTS ORDERS AND IN VIOLATION OF THE PEREZ PRISONER CLASS ACTION LAWSUIT.]

A.

[CASE HISTORY]

I, Christopher T BURNS, Declare

a) follows:

I am a state of California prisoner,  
CDCR NO K-30680 and I am currently confined at the  
California Men's Colony (CMC) State Prison in San Luis Obispo

California

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to actively participate, write and mail my written comments to the Honorable Judge Jeffrey White and the Court during the time period for the comments on the fairness of the Perez vs Tilton consent Decree before Judge White approved or rejected the Perez consent Decree. Had I been available and not incapacitated by the forced, negligent psychotropic drugging, I would have written and mailed my comments on the fairness of the Perez consent Decree to this court before Judge White approved or rejected the Perez vs Tilton consent Decree.

C.

[INEFFECTIVE ASSISTANCE  
OF APPOINTED COUNSEL]

Over the past fifteen (15) months,  
I have filed over ten (10) complaint letters with

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The current overlapping, confluence and intersection of Federal lawsuits to address and correct Defendants Nullification as found and concluded in the Perez, Plata and Coleman cases have further made abolishing this Nullification, complex, monumental and unprecedented, as the Perez, Plata and Perez cases overlap, intersect and are connected in over thirty [30] areas.

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## [OVERCROWDING IN THE CDCR]

1)

The serious harm and near death I almost suffered as stated in the following Power of this Declaration are a direct result of CDCR Prison

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Appeal Judge Pamela Ann Rymec wrote in  
 Doherty v McCarthy (CD Cal) 1985, in Part  
 quote:

[Planning has lagged  
 behind reality. It is imperative  
 that it catch up. It is equally  
 important that the task of  
 Planning and implementing a Plan  
 for the resolution of overcrowding  
 in general, and double celling in  
 particular be done for the system  
 as a whole, by those who are  
 professional in the administration  
 of Penal Institutions.

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F.

[PLAINTIFF BURNS REQUESTED A TEMPORARY RESTRAINING ORDER, TRO FROM THE (THELTON) HENDERSON COURT OVERSEEING THE PLATA VS SCHWARZENEGGER PRISONER CLASS ACTION LAWSUIT TO ORDER DEFENDANTS TO PROVIDE PLAINTIFF BURNS WITH MEDICALLY NECESSARY DENTAL ITEMS, SERVICES, MEDICAL ITEMS, SERVICES AND TREATMENTS TO ALLEVIATE BURNS SERIOUS AND EXCRUCIATING PAIN AND INFLAMMATION IN BURNS TONGUE AND GUMS, DEFENDANTS WERE FAILING AND DENYING TO PROVIDE BURNS WITH, THEREBY CAUSING BURNS TO SUFFER. ]

On January 30th, 2008 I mailed a Petition dated January 30th, 2008 requesting a Temporary Restraining Order from the Henderson Court overseeing the Plata v Schwarzenegger Prisoner Class Action Lawsuit requesting the Court to order Defendant(s) to provide me with (Medical necessary) medical and dental items, treatment and services to alleviate the excruciating pain and inflammation. I was

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doses of Anti-Inflammation and Pain medication to alleviate the mild to excruciating Pain and Inflammation I experience from my dental and medical problems.

These medical problems overlap my dental care in the Perez Case as will be clearly seen in the following Pages of this Declaration. As of the present day to date my (TRO) is still pending, a decision before the Henderson Court.

I now seek leave of Court to file this Notice of Motion, Motion and Declaration in support thereof Requesting a Court hearing into Defendants Continued Psychological and Physical torture of me in violation of the Courts Order and the Perez Consent Decree.

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I experienced severe and excruciating pain and inflammation in my gum. After I was examined by two (2) other dentists at Ironwood State Prison during this four month period my case was being reviewed by CDCR mental health employee and psychiatrist at Ironwood State Prison, who with these Ironwood Dentists who examined me, concluded I was not suffering from Dental problems that caused excruciating pain and inflammation but my dental problems were delusory, I was suffering from and then placed in an Ironwood State Prison Mental Health Crisis bed as a result of a misdiagnosis of my Dental problem.

After a number of days in the mental Health crisis bed I was then placed in the Ironwood State Prison Administrative Segregative housing unit for two (2) weeks without any anti-inflammation or pain medication to reduce the visible swelling in

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Of my teeth a tooth that was cracked and exposed a nerve that was responsible for causing me excruciating pain and inflammation in my tongue and gums. Dr Van Mohr bonded and sealed my cracked tooth and Openly prescribed Synerdyne Sensitive teeth toothpaste as a daily treatment for brushing my teeth and a soft bristle toothbrush to brush my teeth with.

Dr Van Mohr also told me I needed to go to a well equipped Medical facility like a medical research university with medical and dental resources to adequately and effectively diagnose and treat my medical and dental condition.

The previous account and summary of Ironwood State prison Dental, medical and mental health dismissing my dental, medical problems and periodontal (gum) problems as delusional and the discovery and treatment of Dentist Dr Van Mohr to seal and bond a cracked tooth that exposed a nerve is

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suffer from other serious medical and dental symptoms and problems. Physicians have currently been unable to accurately and currently diagnose and I am currently seeking to be examined by a Rheumatologist.

Periodontal Lichen Planus is a disease of the tissue of the mouth and causes mild to excruciating pain and inflammation in the tissue of the mouth. There is no known cure for Periodontal Lichen Planus. Reasonable Physicians disagree as whether to classify Periodontal Lichen Planus as an Autoimmune disease.

A special daily food item diet and good daily oral hygiene with a soft bristle toothbrush and sensitive teeth toothpaste, dental floss are the best daily treatments to minimize and reduce the pain and inflammation associated with Periodontal Lichen Planus. Dentist, Dieticians, Dermatologists and Physicians,

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Periodontal Lister Plaque.

Around February of the year 2006 while at the California Men's Colony State Prison I stopped eating my daily prison issued food meals and did not eat any food for the next seven (7) consecutive days. Around the second day of this seven (7) day period when I did not eat any food CMC State Prison Dentist, Dr. Carvalho examined my dental problem, and symptoms and misdiagnosed my symptoms, dental problem now known to be as Periodontal Lister Plaque and Dr. Carvalho along with CMC State Prison, Psychiatrist Dr. Walte described and dismissed my Periodontal Lister Plaque and dental problems and symptoms as delusory. I was experiencing from a mental illness I was suffering from. Dr. Carvalho's dental examination of my dental problems and symptoms was relied upon and used by Dr. Walte and CMC State Prison mental health employees to describe and dismiss my dental problems and symptoms as delusory.   
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On June 06, 2006 A California Administrative Law Judge ordered the CDCR and CMC state prison employees to immediately stop psychotropically drugging me because the Administrative Law Judge was ~~presented~~ presented with no evidence that CDCR and CMC state prison employees attempted to use the (least restrictive remedies) of a special food item daily diet and Syntex sensitive teeth toothpaste I repeatedly requested of CMC state prison employees, before CMC state prison employees subjected me to the harm, danger, and adverse side effects of forced psychotropic drugging against my voluntary consent. And CMC state prison employees used the (least restrictive and intrusive means and remedies) of a special daily food item diet and Syntex sensitive teeth toothpaste before subjecting me to malicious and negligent psychotropic drugging, the harm and my hospitalization as a result of almost dying could have been prevented, but instead the CMC state prison employees triggered the (Egg Shell - old soldier legal doctrine) by the grossly negligent psychotropic drugging, that almost

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my dental complaints, problems and symptoms as delusions, of my mind. Dr. Weaver, Dr. Myers, Dr. Wolfe, Dr. Caluchto then intentionally and unjustly psychotropically drugged me and the effects of their grossly sadistic and maliciously neglected psychotropic drugging almost killed me.

The California Department of Corrections and Rehabilitation and the California Men's Colony State Prison use the following, unlawful prison management philosophy to control, operate and manage prisoners confined in the California Department of Corrections and Rehabilitation and Confined at the California Men's Colony State Prison.

The California Department of Corrections and Rehabilitation (CDCR) and the California Men's Colony (CMC) State Prison regard prisoners Dental Services

Under the Perez v Tilton Case; Medical Services

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System of rewards and punishments  
founders....

In the first place, the  
punishments which the officials  
can inflict - for theft, assault,  
escape attempts, gambling, insolence,  
homosexuality and all the other  
deviations from the pattern of  
behavior called for by the  
regime of the Custodians (do not  
represent a profound difference  
from the prisoner's usual status.  
It may be that when men are  
chronically deprived of liberty,  
material goods and services,

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may mean the difference in  
existence which can be  
borne, painful though it may  
be and one which cannot.

To this we must  
couple the important fact  
that such punishment as the  
custodian can inflict may lead  
to an increased prestige for the  
punished prisoner in the eyes of  
his fellow prisoners. He may  
become a hero, martyr, a  
man who has confronted his  
captors and dared them to  
do their worst.

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as the just due of the Prisoner  
which should not turn on the  
question of obedience or  
disobedience within the walls.

[The Technical  
word for this previously  
described prison management  
Philosophy is [DULOCRACY]

After all the Prisoner Population  
claims that mail, visiting, exercise,  
Dental service, medical service and Mental  
Health service are Prisoner rights guaranteed  
by the Constitutional (Furman) as codified  
in the Bill of Rights. [See, Law and  
The Behavioral Sciences, copyright 1969,  
written and edited by University of Stanford,  
Law professor, Lawrence Friedman and University  
of Wisconsin, Law professor, Stewart Macaulay].

Chief dental officer of the day. Dr. Cavullo then terminated my dental appointment and said I was not cooperating with him to receive dental care and services.

On January 03, 2008 for the second time CMC State Prison Dentist Dr. Cavullo attempted to examine, treat and diagnose my dental problems, symptoms and Periodontal Lichen Planus. I told Dr. Cavullo it was inappropriate for him to treat and examine my dental problems because in 2006 he had been negligent in treating and diagnosing my dental problems and Periodontal Lichen Planus and I almost died from his negligent misdiagnosis that subjected me to forced psychotropic drugs. Dr. Cavullo terminated my Dental appointment and said I was refusing dental treatment; I again requested Dr. Cavullo to have another CMC State Prison Dentist examine and treat my dental problems and Periodontal

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and terminated my dental appointment.

CMC State Prison Dentist, Dr. Caruchio is attempting to manipulate my current circumstances, to gain my consent to continue to treat my dental problems, symptoms and Dr. Caruchio's misdiagnosis of my now known Periodontal Lichen Planus in an attempt to use the [Assumption of the Risk doctrine] as a defense to the deliberate indifference Dr. Caruchio committed against me when he misdiagnosed my Periodontal Lichen Planus in 2006, that lead to the grossly negligent psychotropic drugging of me that almost killed.

On December 25, 2007 I was placed in the CMC State Prison Administrative Segregation housing, [Isolation unit] unit with justification and from December 25, 2007 to the present day to date while housed in the Administrative Segregation unit [Isolation unit] CMC State Prison medical and Dental  
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Still refuse to provide me with a medical necessary  
 Soft brush both brush, Aggressive sensitive teeth toothpaste,  
 a special dairy food item diet, medical and dental  
 services and treatment, as these items, diet and  
 services and treatment are needed, necessary to  
 reduce and alleviate the mild to excruciating pain  
 and inflammation I am in as a result of my  
 present dental, medical problems and Periodontal  
 Ulcer plus.

On January 03rd, 2008 I  
 filed an CDCR Administrative Prisoner Appeal dated  
 January 03rd, 2008 with the CMC State Prison  
 Administrative Prisoner Appeals Coordinator. I request  
 this Appeal to be processed as an Urgent / Emergency  
 Appeal to address and minimize the inflammation and  
 pain from my present dental, medical problems and

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Around January 16, 2008 I received a CDCR Screening Notice Appeal from the CMC State Prison Appeal Coordinator stating the Appeal Coordinator was refusing to process my Appeal dated January 03, 2008 that requested the previously mentioned dental items, medication and special diet in part for the following reasons.

[ your submitted Appeal

(dated January 03rd, 2008) contains ~~ing~~ medical dental, property issues. You will need to separate your issues by writing a new appeal on each issue....

You may submit only one appeal

Per week so pick which issue is most important.

to you and send only one appeal Per week. ]

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On January 03rd, 2008, because I am  
 confined in prison, have suffered much and may suffer much  
 more, I requested my mother Ms Evelyn Burk to  
 facsimile a (Temporary Restraining Order) Petition to  
 the (Heller) Henderson Court over the Plaintiff  
 Schwarzenegger, Prison Class Action Lawsuit with a  
 general summary of the previously stated facts  
 in this Declaration. My beloved mother  
 without my knowledge revised my statement  
 of facts and summary and wrote and mailed a  
 letter dated January 23rd, 2008 to Judge  
 Henderson about my current dental and medical problem  
 addressed in this Declaration of my state prison. My  
 mother lost her son my identical twin brother  
 in the year of 1994 to suicide.

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to diagnose and treat my present dental and medical  
Symptoms, Problems, and periodontal Lichen Planus

I cannot use the current CDC  
State issued General population or Administrative segregation  
housing units, (MADE IN CHINA) TOOTH BRUSHES  
OR TOOTH POWDER. All these items, the tooth brush  
and the tooth powder are highly abrasive and irritate,  
aggravate and inflame my medical and dental problems,  
and my periodontal Lichen Planus.

It Appears that from the previous  
stated facts that CMC State Prison Dental, medical  
and mental health employees, along with prison officials,  
are intentionally, delaying, and denying, to provide me  
with the previous mentioned Dental and medical  
medically necessary items, diet, and ongoing services and

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## CONCLUSION

I, SEEK LEAVE From this court, to file this Notice of Motion and Motion and my Declaration in support thereof, for the previously reasons stated therein a Request this Court to hold a Court hearing without delay into Defendant's CONTINUED Psychological and Physical torture of me in utter contempt of this court's order, and in violation of the Perez vs Tilton, Prisoner CLASS Action Lawsuit.

I, declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 03rd day of February 2008 at the California Men's Colony State Prison in San Luis Obispo, California.

Christopher T Burns

Christopher T BURNS

EXHIBIT  
LETTER  
[ A ]

[ COPY OF CDCR ADMINISTRATIVE  
PRISONER APPEAL, DATED, JANUARY 03, 2008  
REQUESTING MEDICALLY NECESSARY ITEM,  
MEDICATION, SPECIAL DIET OF FOOD, ]

EXHIBIT LETTER [ A ]

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE  
APPEAL FORM**  
 CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
Christopher T BURNS	K-30680	Unassigned	Ad-seg 4221

**A. Describe Problem:** Because of the following facts and reasons I request CMC State Prison employee to process this Appeal as an Urgent/Emergent CDCR Administrative Prisoner Appeal. On Christmas Day December 25, 2007 at the California Men's Colony (CMC) in San Luis Obispo California, Christopher T BURNS, Appellant CDCR NO K-30680 was placed in CMC State Prison's Administrative Segregative (Ad-seg) housing unit. During BURNS Pre Ad-seg Medical Report of Injury or Unusual Occurrence (CDCR 7219) examination Burns told the [Continued, see the Frontside of Attachment no one, A Describe Problem]

If you need more space, attach one additional sheet.

**B. Action Requested:** For the facts and reasons stated in section A Describe Problem of this Appeal BURNS, Appellant Requests CDCR and CMC State Prison employee take the following Action 1) process this Appeal as an Urgent/Emergent Appeal to reduce [Continued, see the Backside of Attachment no one, B Action REQUESTED]

Inmate/Parolee Signature: Christopher T BURNS Date Submitted: 01/03/2008

**C. INFORMAL LEVEL** (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

Staff Signature: \_\_\_\_\_ Date Returned to Inmate: \_\_\_\_\_

**D. FORMAL LEVEL**

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number.



# FRONT SIDE OF ATTACHMENT NO ONE

## A DEXRIB PROBLEM, CONTINUED

examining nurse, Burni suffer from Periodontal Lichen Planus and other medical and dental problems that require Burni to use a soft bristle toothbrush, Aquafresh sensitive teeth toothpaste, Dental floss and adequate anti-inflammatory medication to reduce inflammation associated with BURNI's medical and dental problems. Upon BURNI's placement in Ad-Seg on December 25, 2007 around 10:30 AM Burni told the Ad-Seg housing unit nurse that Burni suffer from periodontal Lichen Planus, medical and dental problems that require Burni to use a soft bristle toothbrush, Aquafresh sensitive teeth toothpaste, Dental Floss and Ibuprofen. This nurse later told Burni that Ad-Seg employees would provide Burni with Burni's personal soft bristle toothbrush, personal Aquafresh Sensitive teeth toothpaste, Dental floss that was in Burni's personal property. As of today Ad-Seg employees have never provided Burni with these medically necessary dental items. On December 26, 2007 Burni gave the PM Shift Ad-Seg nurse a CDCR Health Care Services Request Form (7362) requesting Burni be provided with the medically necessary dental items of a soft bristle toothbrush, Aquafresh sensitive teeth toothpaste and dental floss. On December 27, 2007 Burni gave the AM Shift Ad-Seg nurse two (2) different CDCR Health Care Services Request form (7362). The first request, requested soft bristle toothbrush, sensitive teeth toothpaste, Dental floss. The second CDCR Health Care request, requested a physician or dentist to increase Burni's Ibuprofen from one 400 mg Tablet to be taken three times a day to two 400 mg Tablets to be taken three times a day as needed because the present dosage of one 400 mg tablet a day is inadequate, ineffective to minimize and reduce the severe pain and inflammation Burni suffer from. On December 31, 2007 Burni was interviewed by the Baker Facility Thelma nurse about Burni's request dated December 27, 2007, requesting an increase in Burni's Ibuprofen medicine. This nurse said she did not have Burni's CDCR medical file before to read and review and did not know where Burni's CDCR medical file was and told Burni she could not help Burni and a physician would see Burni in two weeks. This nurse left Burni in pain with inflammation and the nurse could have cared less. On January 01st, 2008 Burni gave the AM Shift nurse a CDCR Medical Health Care Services Request Form (7362), requesting a physician, Dietician or dentist to issue an order to provide Burni with a daily food diet to reduce, minimize the inflammation and pain caused by Burni's present state issue daily diet that irritates and aggravates Burni's Dental and medical problems. Again on January 02, 2008 Burni gave a PM Shift nurse CDCR Form (7362) requesting a state issued daily diet to accommodate his medical and dental conditions. On January 03rd, 2008 CMC State Prison Dentist Dr. Carvahlo attempted to examine Burni for Burni's Dental problems and Periodontal Lichen Planus. Burni told Dentist Dr. Carvahlo it was not appropriate for Dr. Carvahlo to examine Burni as Dr. Carvahlo misdiagnosed Burni's Periodontal Lichen Planus. (Continued, see the backside of this page A DEXRIB Problem)

BACKSIDE OF ATTACHMENT NO ONE

A. DESCRIBE PROBLEM, CONTINUED

Planus in the year of 2006 during an examination by Dr. Caruchlo of Burns. This misdiagnosis of Burns Periodontal during a negligent examination by Dentist Dr. Caruchlo was used and relied upon by CMC State Psychiatrist Dr. Walter and CMC State Prison mental health employee to describe Burns symptoms as delusion, and Burns was then subjected to forced psychotropic drugging, that caused Burns to spiral into a deep depression that induced Burns to cut his wrists, overdose on Aspirin and almost killed Burns, as Burns was hospitalized in the Intensive Care Unit of Sierra Vista Regional Medical Center. Because of the past adverse history of negligence and the misdiagnosis of Burns Periodontal like Planus by Dr. Caruchlo and the subsequent psychotropic drugging, Burns told Dr. Caruchlo it was inappropriate for Dr. Caruchlo to examine and treat Burns dental problem, and Burns requested Dr. Caruchlo on (January 02nd, 2008) to have another CMC State Prison dentist examine and treat Burns dental problems. Dr. Caruchlo refused to have another CMC State Prison examine and treat Burns dental problem, and denied Burns dental services and treatment. The present CDR State issued toothbrush, and tooth powder in General Population and in the Ad-Log housing unit of CMC State Prison irritate, aggravate (and cause severe excruciating pain) my Periodontal like Planus and medical and dental conditions and Burns cannot use these State issued toothbrush or tooth powder.

An hour later after Dr. Caruchlo refused to have another CMC State Prison dentist treat and examine Burns Dental problem, Burns appeared before a CMC State Prison Institutional Classification Committee (ICC) to review Burns initial placement in Ad-Log on December 25, 2007. Burns told the ICC that Dr. Caruchlo misdiagnosed Burns Periodontal like Planus in 2006 and Burns was psychotropically drugged because of Dr. Caruchlo's negligence towards Burns and CMC State Prison medical and dental employee and Ad-Log employee were refusing to provide Burns with Burns medical necessary dental items as previously stated in this Appeal. CMC State Prison medical and dental employee and Ad-Log employee are delaying and denying Burns his medically necessary dental item, and special diet as previously stated in this Appeal, and medical and dental services in retaliation against Burns, because Burns filed a previous CDR Administrative Prisoner Appeal IAB Case No. 0706833; Local Log No CMC-07-01622 against CMC State Prison medical and dental employee for being deliberately indifferent towards Burns medical and dental problems.

B. ACTION REQUESTED, CONTINUED

and minimize the inflammation and pain from the dental and medical problems this Appeal addresses?

- 2) Immediately provide Burns with A) A Soft bristle toothbrush that will not aggravate or irritate Burns dental problems; B) Aqua-fresh Sensitive teeth toothpaste; C) Dental floss; D) prescription or Ibuprofen of two (2) 400 mg tablets to be taken three times a day as needed or two 400 mg tablets, two times a day as needed to reduce and minimize the severe pain and inflammation caused by Burns Dental problems. E) Provide Burns with a special daily State issued food item diet to reduce and minimize the pain and inflammation caused by Burns present State issued daily food item diet.

EXHIBIT  
LETTER  
[ B ]

[ COPY OF THE CDCR DIRECTOR'S  
LEVEL OF REVIEW FOR CDCR ADMINISTRATIVE  
PRISONER APPEAL, IAB CASE NO 0706833,  
LOCAL LOG NO CMC-07-01622 ]

EXHIBIT LETTER [ B ]

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001  
**DIRECTOR'S LEVEL APPEAL DECISION**

Date: NOV 28 2007

In re: Christopher Burns, K30680  
California Men's Colony  
P.O. Box 8101  
San Luis Obispo, CA 93409-8101

IAB Case No.: 0706833

Local Log No.: CMC-07-01622

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner V. O'Shaughnessy. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** It is the appellant's position that around 2003 a dentist at Chuckawalla Valley State Prison prescribed Synsodyne toothpaste for sensitive teeth. He states that this toothpaste helped his condition at that time. The appellant claims that he was diagnosed with Lichen Planus in 2006 and again prescribed Synsodyne for his Lichen Planus. It did not relieve all of his symptoms. Ibuprofen was prescribed to relieve his pain. The appellant does not want to be examined or treated by his assigned dentist because the appellant considers the dentist negligent and deliberately indifferent in examining, diagnosing and treating his Lichen Planus. The appellant is requesting: 1) This appeal be processed as an urgent/emergent appeal and a log number assigned; 2) The appropriate staff member review and respond to this appeal; 3) The appellant to receive a notice of the receipt and tracking of this appeal; 5) A prescription for Synsodyne toothpaste; 6) A top quality soft bristle toothbrush that will not irritate or aggravate his disease; 7) Dental floss; 8) A chrono allowing him to retain a soft toothbrush and dental floss; 9) Be barred from his assigned dentist and be reassigned to another California Men's Colony (CMC) dentist; and 10) Be examined and treated by a physician who has special training and previous experience in treating Lichen Planus without delay.

**II SECOND LEVEL'S DECISION:** The reviewer found that this appeal will go through the usual process, due to it not fitting the classification of an urgent/emergent issue. It has been assigned a log number and it was sent to the appropriate staff members for a written response. The appellant received notice of medical receiving the appeal. Due to the fact that Synsodyne toothpaste is not a treatment for Lichen Planus but does help reduce sensitivity to the hard tissues (teeth) in the appellant's mouth, this request is denied. Aquafresh for Sensitive Teeth is available to the appellant through the canteen. Aquafresh has the same active ingredient as Synsodyne and is available to the appellant currently. The state currently provides the appellant with a soft bristled brush. Dental flossies are currently available in the appellant's quad. Dental chronos are issued only for Dental Priority Classifications. According to the CDCR Dental Policies and Procedures Manual, Chapter 8.4, states "Chronos shall not have health conditions stated in the body of the form." We can not bar you from seeking health care from your assigned dentist. CDCR dentists cannot pick which patients they want to see nor do inmate patients pick who they would like to see. Each inmate patient is randomly assigned via a computer program based on work load so that it is fair to each individual. We do not reassign dentists and/or patients. The appellant may seek care from his assigned primary care physician if he chooses. The appellant will be scheduled to see an oral surgeon in regards to his condition. The appeal was granted in part at the Second Level of Review (SLR) on August 14, 2007.

**III DIRECTOR'S LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** The Director's Level of Review reviewed the appellant's appeal complaint, the SLR C. Ortiz, Medical Appeals Coordinator, reported that the appellant has an appointment with the oral surgeon at the end of October, 2007. The issues on appeal have been addressed. No modification to the SLR is warranted.


CHRISTOPHER BURNS, K30680  
CASE NO. 0706833  
PAGE 2

**B. BASIS FOR THE DECISION:**

California Code of Regulations, Title 15, Section: 3350, 3355.1

**C. ORDER:** No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.

  
R. GRANNIS, Chief  
Inmate Appeals Branch

cc: Warden, CMC  
Health Care Manager, CMC  
Appeals Coordinator, CMC  
Medical Appeals Analyst, CMC

medical and dental diagnostic services, and treatments to treat my medical and dental problems and periodontal Lichen Planus) and thereby alleviate my mild to excruciating pain and inflammation, in an attempt to provoke me to stop eating so that CMC State Prison medical, dental and mental health employees, Prison officials, etc (again) for the second time subject me to malicious and vindictive forced psychotropic drugging, as CMC State Prison Psychiatrist Dr Walter who was directly responsible for having me negligently psychotropically drugged in 2006 has been currently assigned to directly care for my psychiatric care and mental health.

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My Mother also mailed a letter to Prison Law Office Attorney M) Alison Hardy about my current dental problems at CMC State Prison. MS Hardy mailed a memorandum dated January 16, 2008 requesting state of California Deputy Attorney General, MR Charles Antonen to make inquiry under the Perez Consent Decree into why CMC State Prison medical and dental employees were refusing to provide me with, A soft bristle toothbrush, Pain medication, Dental Floss, Aquafresh Sensitive teeth tooth paste.

All of the present day to date CMC State Prison medical and Dental employees and prison employees to refuse to provide me with a soft bristle toothbrush, Aquafresh sensitive teeth toothpaste, a special daily food item diet and ongoing, Physician, Dentist, treatments and examinations.

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CMC State Prison medical and dental employees and prison employees, Administrative Segregation employees are delaying and denying to provide me with the previously mentioned medically necessary medical and dental items, services, and treatment to treat my serious medical and dental problems, in direct retaliation against me for a previously filed CCR Administrative Prisoners Appeal, IAB Case No 0706833; Local Log No CMC-07-01622, that stated CMC State Prison employees and medical and dental employees had been deliberately indifferent to treatment and responding to my medical and dental problem. This Appeal was exhausted at the CCR Director Level of

Review on November 28, 2007. [Please see, Exhibit Letter [B] Attached to this Motion and Declaration for a copy of the Director Level of Review for my Appeal, IAB Case No 0706833; Local Log No CMC-07-01622]

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Periodontal Lichen planus and this Appeal requested that CDCR and CMC State prison employer, medical and dental employees immediately provide me with the following items and services to treat and reduce the mild to excruciating pain and inflammation I was experiencing from my dental, medical problems and periodontal Lichen planus:

- 1) Soft bristle tooth brush;
- 2) Aquafresh Sensitive teeth toothpaste;
- 3) Dental Floss;
- 4) Adequate and effective medical doses of Ibuprofen, to reduce pain and excruciating inflammation;
- 5) Special daily food item diet;

Please see, Exhibit Letter [A] Attached to this motion and Declaration for a copy of this CDCR Administrative Prisoner Appeal dated January 03, 2008 requesting, these medically necessary items, medication and diet]

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employees and prison officers, and officers refuse to provide me with a medically necessary soft bristle toothbrush, Aquafresh Sensitive teeth toothpaste and a daily special food item diet and medical and dental services to adequately treat alleviate the pain and inflammation associated with my current medical and dental problems and Periodontal Lichen planus, (c) these medical necessary, Dental items, Diet, medical and dental services will reduce and minimize the day to day mild to excruciating pain and inflammation I suffer from caused by my medical and dental problems and Periodontal Lichen planus.

Notwithstanding the many CDCR Health Care Services Request Forms (CDCR 7362) I have submitted to CMC State Prison medical and dental employees since being placed in the Administrative Segregation housing unit in December 25, 2007

CMC State Prison medical and dental employees and prison employees

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Lichen Planus but again Dr. Canabalo refused to have another CMC State Prison Dentist examine and treat my dental problems and periodontal Lichen Planus.

For the third (3rd) time on January 15, 2008 CMC State Prison Dentist Dr. Canabalo attempted to gain and secure my consent to allow Dr. Canabalo to treat and examine my dental problems and concern, and my periodontal Lichen Planus. I again told Dr. Canabalo he was not going to treat me and have another Dentist treat and examine my dental problems. Dr. Canabalo then said I was refusing Dental treatment and for the (3rd) third time in a row denied me Dental treatment and services to treat and examine, diagnose my dental problems, symptoms and periodontal Lichen Planus.

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On July 17, 2007, CMC State Prison Dentist Dr. Cavullo attempted to examine my Dental problems and Periodontal Lichen Planus. I told Dr. Cavullo that I did not want Dr. Cavullo to examine treat or diagnose my dental problems or now known Periodontal Lichen Planus because in 2006 Dr. Cavullo was negligent and misdiagnose my dental problems and Periodontal Lichen Planus during the 2006 Dental examination ~~and~~ I almost died from Psychotropic drugging that I was subject to by Dr. Cavullo's misdiagnosis of my dental problems and Periodontal Lichen Planus. I request Dr. Cavullo to have another CMC State Prison Dentist examine, treat and diagnose my dental problems and symptoms and Periodontal Lichen Planus but Dr. Cavullo refused to have another CMC State Prison dentist examine and treat my dental problems and Periodontal Lichen Planus. I requested Dr. Cavullo to let me speak to the Chief Dental Office and Dr. Cavullo said he was to act

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From the viewpoint of the officials of course, the privileges, of the Prison social system are regarded as rewards, as something to be achieved; That is to say, the custodians hold that recreation, access to the Prisoner canteen, Good time, or visits from individuals in the free community are conditions upon conformity or good behavior. But the evidence suggests that from the viewpoint of the prisoner, the variety of benefits granted by the custodian, is not defined as something to be earned but as an inalienable right

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recreational opportunities and so on  
 the few pleasures that are  
 granted take on a new  
 importance and the threat of their  
 withdrawal is a more powerful  
 motive for conformity than those  
 of us in the free community  
 can realize. To be locked up  
 in the Administrative Segregation housing  
 unit, (Isolation Unit), that prison  
 within a prison, to move from  
 the monotonous often badly  
 prepared meals in the mess hall  
 to a diet of bread and water;  
 to be dropped from a dull,  
 unsatisfying job and forced to  
 remain in idleness, all perhaps

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under the Plata v Schwarzenegger case; And Mental Health Services under the Coleman v Schwarzenegger case  
 as prisoner (Luxuries) and (Non-essentials) to the California state prisoner.

[If men are to be controlled by the use of rewards and punishments - by promises and threats - at least one point is patent: the rewards and punishments dangled in front of the individual must indeed be rewards and punishments from the point of view of the individual who is to be controlled. It is precisely on this point, however, that the Custodian,

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resulted in my near death.

I believe CMC State Prison employees misconstrued me not eating for seven [7] consecutive days as a [Power Move] to accelerate medical treatment and services, and CMC State Prison employees responded and retaliated against me by continuing to delay and deny me medical and dental treatment and services to treat and diagnose my well documented medical and dental problems in my CDCR medical, Dental and Mental health file.

CMC State Prison employees, and Prison officials and officers along with CMC State Prison employee supervising psychiatrist Dr. Weaver, supervising psychiatrist Dr. Myers and psychiatrist Dr. Walke, and dentist Dr. Caruchio misconstrued my not eating for seven [7] consecutive days and decided to [detain] other CMC State Prisoners from this supposedly rebellious conduct by intentionally and maliciously misdiagnosing  
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was experiencing as a result of suffering from a mental illness, to subject me to forced Psychotropic drug(s).

This malicious and grossly neglected psychotropic drug(s) of me caused me to spiral into a deep depression and induced me to cut my wrist and Over-dose on Aspirin in a Suicide Attempt that ~~to~~ almost resulted in my near death as I was placed in the Intensive Care Unit of Sierra Vista Regional Medical Center.

From my initial Commitment to the CDCR in 1996 to the time I was forced to take antipsychotic drugs in the year of 2006, I had a ten (10) year absence of any suicide attempts and it was not until I was psychotropically drugged by force in violation to my will and consent and under the influence of the drugs, did I experience suicidal thoughts and by the condition, these antipsychotics left me in did I attempt suicide.

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Openly Prescribe Patients with Periodontal Lichen Planus not to eat food items, ingredients or drink liquids that aggravate and antagonize Periodontal Lichen Planus.

Food items, ingredients and liquids known to aggravate, irritate and inflame Periodontal Lichen Planus are milk, Butter, Frosting, Citric Acid, Orange, Apple, Orange juice, Apple juice, Onion, Jelly, Syrup, Sugar, Salt, Pepper, Spice, Peanut butter, Various Sauces, Barbecue sauce, Teriyaki sauce, Salza, Sweet and sour mustard, mayonnaise, Salad dressing, gravy, etc.

Periodontal Lichen Planus is known to cause excruciating and intolerable inflammation and pain in the tissue of the mouth rendering a person with Periodontal Lichen Planus unable to perform the daily essential act of eating one's daily meals. Such was the case with me in the year of 2006 before ENT

Dr. Hendrix accurately and correctly diagnosed me with

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written and recorded in my California Department of Corrections and Rehabilitation Medical, Dental and mental health file and had California men, colony state prison Dentist Dr. Caruchio read ~~to~~ this account in my file Dr. Caruchio would not have subjected me to a misdiagnosis of my dental problem, and had California men, colony state prison psychiatrist read this account and summary in my file Dr. Welton along with Dr. Caruchio would not have repeated the negligence Ironwood state prison medical, Dental and mental health employee committed in 2002 against me by describing and dismissing my medical and dental problems, symptoms and complaints as delusion, caused by a mental illness I was suffering from.

I presently suffer from Periodontal Lichen planus. I was diagnosed with Periodontal Lichen planus in the year of 2006 by Ear, Nose and throat specialist, Dr. Hendric. I also presently

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my cheek and the excruciating pain and inflammation in my gums and tongue I was suffering from as a result of my dental and medical problems.

While in the Ironwood State Prison Administrative Segregation housing unit I was interviewed by two (2) deputies of the State of California Office of the Inspector General about Ironwood State Prison Dental and medical employee refusing to treat my dental problem, and leaving me to suffer with extreme pain and excruciating inflammation caused by my medical and dental problems. These two (2) deputies of the Office of Inspector General after my interview with them had me transferred that night or the next day to Chuckawalla State Prison also in Blythe, California that was about half a mile away from Ironwood State Prison.

While at Chuckawalla State Prison I was examined by Chuckawalla State Prison Dentist, Dr. Von Mohr who discovered during a dental examination

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G.

[STATEMENT OF THE DELIBERATELY  
INDIFFERENT, MALICIOUS AND SADISTIC  
FACTS OF DEFENDANT'S CONTINUAL PSYCHOLOGICAL  
AND PHYSICAL TORTURE OF PLAINTIFF BURNI  
IN UTTER CONTEMPT OF THIS COURT'S ORDER,  
AND IN VIOLATION OF THE PEREZ PRISONER  
CLASS ACTION LAWSUIT]

Around October of the year 2002

While I was confined at Ironwood State Prison  
in Blythe, California, after a dental cleaning by  
Ironwood State Prison Dentist, Dr. Garsh I  
experienced severe excruciating Pain and inflammation  
in my Gum that I had not been suffering from  
before this dental cleaning of my teeth by  
Dr. Garsh.

For about four (4) months after  
this dental cleaning of my teeth by Dr. Garsh

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suffering from as a result of my well documented medical and dental problems and conditions, more fully detailed and described in the following Page of this Declaration.

I filed this Temporary Restraining Order with the Henderson Court because the appointed Federal Receiver has the Delegated Responsibility to make sure CDCR and CMC state Prison employees provide me with medically necessary medical services to treat my Lichen Planus, provide me with a special daily food item diet to accommodate my Lichen Planus and to ensure the CDCR and CMC state Pharmacies provide me with medically necessary Aquafresh Sensitive Teeth toothpaste to accommodate my medical and dental problems associated with my Periodontal Lichen Planus, and to ensure I have adequate and effective

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In default of such planning, however judicial intervention is inevitable although it will as inevitably solve one prison's problem of the expense of others. In effect this is the plight of the California Men's Colony (CMC) State Prison.

Before this Institution crosses the Constitutional line on which it is poised, and in turn becomes a lead domino causing further unplanned crunches, the Public through its legislature and executive has an opportunity and responsibility to respond.

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Overcrowding, as CDCR Prison Correctional Officer, officers and employees try to operate and manage California State Prison Overcrowding. The present overcrowding in California Prisons has delayed and has denied me Dental Services, treatment and resources as well as medical and mental health services, treatment and resources and medical necessary items to alleviate exorbitant pain, as a result of too many prisoners in need of too few, scarce California State Prison resources, supplies, services and care.

2.

[FEDERAL DISTRICT JUDGE  
PAMELA ANN RYMERS ADMONISHMENT TO  
THE CDCR AT CMC STATE TO SAFELY  
RESPOND TO CDCR PRISON OVERCROWDING]

Twenty-five [25] years ago then  
Federal District Judge and now Ninth Circuit Court of

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Perez appointed counselor who have failed to effectively and adequately inform, advocate and address with this court, Defendants blatant deliberate indifference and malicious, and sadistic behavior and conduct towards my Dental problem, condition, care, treatment and services, and Defendants continued Psychological and Physical torture of me.

D.

### [CIR NULLIFICATION]

This court is fully aware of Defendants direct nullification of the Federal Law's enjoining Defendants to provide Dental treatment, services and treatment to California state prisoners.

B.

[PLAINTIFF BURNS WAS INCAPACITATED DUE TO MALICIOUS AND GROSSLY NEGLIGENT FORCED PSYCHOTROPIC DRUGGING AS A RESULT OF A DELEBERATELY INDIFFERENT AND GROSSLY NEGLIGENT DENTAL EXAMINATION BY CALIFORNIA MEN'S COLONY STATE PRISON DENTIST, DR CARVAHLO AND WAS THUS UNAVAILABLE TO PARTICIPATE DURING THE COMMENT PERIOD BEFORE THE COURT APPROVAL OF THE PEREZ CONSENT DECREE.]

I was incapacitated due to malicious and grossly negligent forced psychotropic drugging against my consent and voluntary will as a result of a deliberately indifferent and grossly negligent dental examination by California Men's Colony State Prison Dentist Dr Carvahlo and misdiagnosed by Dr Carvahlo, while I was confined and housed in the CMC State Prison Mental Health Crisis Unit and the Administrative segregation housing unit (Isolation Unit), and was thus unavailable

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Page NO

as CDCR failure to  
safely respond to prison  
overcrowding will  
inevitable result in  
judicial intervention.

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F.

Requested Temporary Restraining Order  
from the Henderson Court overseeing  
the *Plata v Schwarzenegger* lawsuit by  
Prisoners to order Defendants to provide  
Plaintiff Burns with medical necessary items  
to alleviate Burns severe and excruciating pain  
and inflammation. Defendants were denying and  
failing to provide Burns with, thereby  
causing Burns to suffer

15 - 16

G.

Statement of the deliberately  
indifferent, sadistic, malicious facts of  
Defendants continued physical and  
psychological torture in violation of the  
Perez Prisoner Class Action lawsuit

18 - 48

## CONCLUSIONS

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EXHIBIT LETTER [A] Copy of CDCR  
Administrative Prisoner Appeal, dated January 03rd, 2008 Requesting  
medically necessary items, medication, special food item daily diet.

EXHIBIT LETTER [B] Copy of the CDCR Director  
Level of review concerning Dental Care, services, for CDCR Administrative  
Prisoner Appeal IAB case no 0706833; Local case no CMC-07-01622

## TABLE OF CONTENTS CONTINUED

III.

Pages

Declaration of Perez Plaintiff  
Christopher T Burns in support  
of seeking leave of court to  
file this Notice of Motion, Motion  
and Declaration, requesting a court  
hearing into Defendants' continued  
Physical and Psychological torture  
of Plaintiff Burns in utter  
contempt of this court's order  
and in violation of the  
Perez vs Tilton Prisoner Class  
Action Lawsuit.

7- 49

A.

Case History

7

B.

Plaintiff Burns was incapacitated  
due to malicious and grossly  
negligent forced psychotropic  
drugging as a result of a  
deliberately indifferent and grossly  
negligent Dental examination by  
California Mens Colony State Prison  
Dentist, Dr Carvahlo and was  
thus unavailable to participate  
during the comment period before  
the court approval of the Perez  
Consent Decree.

8 - 9







ENCLOSURE  
FEB 25 2008  
U.S. DISTRICT COURT  
NORTH DISTRICT OF CALIFORNIA  
SAN FRANCISCO  
The enclosed notice of motion, motion, Declaration  
in support thereof dated February 03rd, 2008 and  
two (2) exhibits in support thereof for the Peter  
vs. Tilton, Prisoner Class Action lawsuit.

Clerk of the Court, also enclosed with  
this cover letter please find a duplicate headed writing  
copy of the enclosed notice of motion and motion,  
Face / Caption Case Sheet and a Self-addressed  
Stamped - Envelope. Please stamp ~~my~~ filed on  
my duplicate copy of the enclosed Face / Caption Case  
Sheet, motion, ~~set~~ and return it to me in the  
Self Addressed Stamped envelope. Thank-you.

Most cordially,

Christy T Burns

Christopher T BURNS

Cover letter to the ND Clerk of the Court from Prisoner BURNS  
February 03rd, 2008  
Backside  
Page no one of one